



**Notice of Non-Responsive
Amendment**

Application No.

10/541,453

Examiner

Andrew M. Dolinar

Applicant(s)

KATAOKA ET AL.

Art Unit

3747

The reply filed on July 24, 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The amendment such that all claims are drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because claim 1 has been amended to include a fuel cut feature that is not present in the elected species. Claim 1 now appears to be drawn to the non-elected species (V) FIG. 11..

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Dolinar whose telephone number is (571) 272-4840.



Andrew M. Dolinar
Primary Examiner
Art Unit 3747



IFW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Kenji KATAOKA et al.

Group Art Unit: 3747

Application No.: 10/541,453

Examiner: A. DOLINAR

Filed: August 18, 2005

Docket No.: 124628

For: CONTROL APPARATUS OF INTERNAL COMBUSTION ENGINE

RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the October 11, 2006 Notice of Non-Responsive Amendment ("Notice," copy attached), Applicants respectfully submit the following response. Claims 1-20 are pending in this application. Claims 5-10 and 16 have been previously withdrawn from consideration by the Examiner.

The Notice asserts that Applicants' Amendment, filed July 24, 2006, is not responsive to the previous Office Action because amendments to claim 1 appear to make claim 1 drawn to non-elected Species V (Fig. 11), as defined in the April 12, 2006 Election of Species Requirement. In response to the April 12 Election of Species Requirement, Applicants provisionally elected Species IX (Figs. 19-22), with traverse. Applicants further indicated that at least claims 1-4, 11-15 and 17-19 are readable on the elected species, and that at least claim 1 is generic to all species.

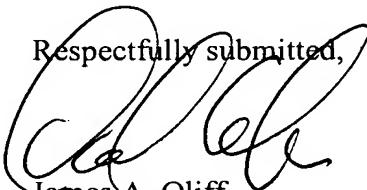
The Notice specifically asserts that the fuel cut feature added by amendment to claim 1 is believed not to be present in the elected species. In response, Applicants respectfully

note that the fuel cut feature, now recited in claim 1, is clearly indicated in at least Figs. 19 and 21, each of which were included in the basis for the elected Species cited by the Patent Office. Further, in the discussion of Fig. 21, the specification clearly indicates that steps S201 to S204 are identical to steps S71 to S74 of Fig. 17 (see page 59, lines 14-16). In the discussion of step S71 of Fig. 17, the specification clearly indicates that a fuel cut is initiated when "the number of engine revolutions is equivalent to the predetermined number of engine revolutions" (page 53, lines 29-33), as recited in amended claim 1. Therefore, Applicants assert that the fuel cut feature was disclosed in Species IX, Figs. 19-22, as well as in those portions of the specification describing such figures.

For at least the foregoing reasons, Applicants believe that the July 24 Amendment is fully responsive. Applicants, therefore, respectfully request withdrawal of the holding of non-responsiveness and entry and consideration of the July 24 Amendment on the merits.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-20 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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JAO:DAT/mdw

Date: November 7, 2006

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